IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 599 (MS) OF 2006

U.P.S.R.T.C. (now known as)
Uttaranchal Transport Corporation,
Through its Regional Manager,
Dehradun. .....Petitioner.

Versus

1. Dilwan Singh Negi,
   S/o late Shri Mahipal Singh Negi,
   R/o 98/16 Pragabiti Bihar, Dharampur,
   District Dehradun.
2. U.P.S.R.T.C.
   through its Managing Director,
   Parivahan-Bhawan,
   Lucknow (U.P.). .....Respondents.

Dated: 19.05.2006

Hon'ble Rajesh Tandon, J.

Heard Sri N.S. Pundir, Advocate for the petitioner and Sri Ramji Srivastava, Advocate for the U.P.S.R.T.C.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 25.02.2006 passed by the Labour Court in Misc. Case No. 29 of 2003 (Annexure No. 3 to the writ petition).

A perusal of the order shows that the respondent has claimed his dues to the extent of Rs. 56,654 on account of the difference of the amount paid to him in pursuance of the 5th Pay Commission. On filing the application under Section 33-C (2), the petitioner has filed his written statement and in

paragraph 12 it has been stated that on 27th October, 2003 Uttaranchal State Transport Corporation was constituted when in point of fact, the respondent has already retired much before that and therefore, the liability is with the U.P. State Transport Corporation. The Labour Court has decided the case on the presumption that there is no dispute with regard to the maintainability of the application as well as the claim of the respondents and as such the amount has been awarded in favour of the respondents.

Counsel for the petitioner, Sri N.S. Pundir has submitted that in paragraph 12 of the written statement the liability is with the U.P. State Transport Corporation and not of the Uttaranchal Road Transport Corporation.

In view of the above, liberty is given to the petitioner to raise this plea before the labour Court and if such a plea is raised by filing an application for review of the order, the said application shall be disposed of in accordance with law within a period of two months from the date of presentation of the certified copy of the order. However, for a period of two months, order passed by the labour Court dated 25th February, 2006 shall remain stayed till the liability is determined by the labour court.

Subject to the aforesaid observations, writ petition is disposed of.

(Rajesh Tandon, J.)

19.05.2006
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